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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91197573
Party	Defendant Sipi Metals Corp.
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Attachments	Motion to Consolidate Opposition.pdf ( 4 pages )(125766 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CHASE BRASS, LLC, a Delaware Limited  
Liability Company,

Opposer,

v.

SIPI METALS CORP., an Illinois Corporation,

Applicant.

Marks: ECO BRONZE / ECO-BRONZE /  
ECOBRONZE

Opposing Marks: ECO BRASS / ECOBRASS

Opposition No. 91/197,571

Opposition No. 91/197,573

Opposition No. 91/197,574

**MOTION TO CONSOLIDATE OPPOSITION PROCEEDINGS**

Sipi Metals, Corp. (“Sipi Metals”), Applicant in Opposition No. 91/197,571, Applicant in Opposition No. 91/197,573, and Applicant in Opposition No. 91/197,574, by and through its attorneys, hereby moves the Trademark Trial and Appeal Board (the “Board”) for an order consolidating the above-identified oppositions under Fed. R. Civ. P. 42(a) and TBMP § 511. A full statement of the grounds for the motion as required by 37 C.F.R. § 2.127(a) is set forth below.

**THE LAW**

“When actions involving a common question of law or fact are pending before the [Board], it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.” Fed. R. Civ. P. 42(a). The Board has discretionary power to order the consolidation of oppositions. *S. Industries Inc. v. Lamb-Weston Inc.*, 45 USPQ2d 1293, 1297 (TTAB 1997) (proceedings involved the same mark and virtually identical pleadings); *Midnight Oil Company*, 59 USPQ2d 1541 (TTAB 2001) (discretion resides

with the Board). This Board must weigh the savings in time, effort, and expense, which may be gained from consolidation, against any prejudice or inconvenience that may be caused thereby. *Lever Brothers Co. v. Shaklee Corp.*, 214 USPQ 654 (TTAB 1982).

### **THE FACTS**

1. Applicant filed on March 1, 2010, for the marks ECO BRONZE (Serial 77/947,618), ECOBRONZE (Serial 77/947,606), and ECO-BRONZE (Serial 77/947,614) (the “BRONZE” marks) each for bronze and bronze alloy in bars, billets and sheets for use in manufacturing by machining, casting or forging in International Class 006.

2. All three BRONZE marks were published in the Official Gazette on July 27, 2010.

3. Opposer, Chase Brass, LLC., claims in first paragraph of each of the three notices that it is the “licensee” of Sambo Copper Alloy Co., Ltd., of the mark ECOBRASS (Reg. 2,474,958), and ECO BRASS (Reg. 2,479,029) for copper alloy in the nature of brass in bars, billets and sheets for use in future manufacturing by machining, casting and forging in International Class 006.

4. All three Notices of Opposition are directed at different marks each owned by Applicant and are based on the same grounds for Opposition [2(a), 2(d), and 43(c)], which rely on the ownership of the same marks [ECOBRASS, and ECO BRASS].

### **ARGUMENT**

Applicant files this motion concurrently with a responsive pleading. All three notices of oppositions involve common questions of law and fact. Each of the pending proceedings involves the identical parties. The notices also rely on the same rights owned by each of the

parties. The three notices also set out the same allegations and are in fact copies of each other with the exception of Applicant's mark. The fact that the three Oppositions involve different marks is not a basis for denying the consolidation. Opposer asserts two different marks, the first a composite mark with two words; the second, a single word mark. It is significant to note that Opposer applied and registered two marks, the first with a space and the second without a space. During discovery, the parties will focus on this variation between Opposer's marks and Applicant's mark. If these proceedings are consolidated, the Board and the parties will be able to resolve the appropriate issues.

In sum, Oppositions 91/197,571, 91/197,573, and 91/197,574 involve identical parties, identical marks, overlapping questions of law and overlapping questions of fact. As a result, it is in the interest of both parties and of the Board to consolidate the proceedings.

Respectfully submitted,

SIPI METALS CORP.

/Robert S. Beiser/  
Robert S. Beiser


Dated: \_\_\_\_\_, 2010

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_th day of December 2010, I served a true and correct copy of the foregoing **Motion to Consolidate Opposition Proceedings** on the attorney for the Petitioner at the address indicated below by depositing said document in the United States mail, first class postage prepaid:

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Stephanie Callas